

DECLASSIFIED
Authority EG 12958
By AR NARA Date 10/27

MEMORANDUM

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THE WHITE HOUSE
WASHINGTON

32637

October 8, 1971

MEMORANDUM FOR: THE PRESIDENT INFORMATION
FROM: HENRY A. KISSINGER *HK* ✓
SUBJECT: 1973 Law of the Sea Conference

THIS MEMORANDUM HAS BEEN
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At Tab A is a memo from Secretary Rogers summarizing the current position on our oceans policy leading up to the 1973 Law of the Sea Conference.

The Secretary makes the following points:

- At the recently concluded Geneva Preparatory Committee, we found widespread support for our proposed 12-mile territorial sea.
- Other countries often linked this support with a demand for satisfying coastal state interests in fisheries and minerals in adjacent waters beyond 12 miles.
- Some countries have been directly opposing us. Spain (because of Gibraltar) is attacking our proposal for free transit through international straits. Brazil and Peru are fighting to protect their unilateral claims to a 200-mile territorial sea.
- The Soviets strongly support us on straits and territorial seas, but think we're offering coastal states too much on fisheries at this time (the Soviets have important long-distance fishing interests which conflict with coastal state interests).
- The Secretary's Prognosis: good on the 12-mile territorial sea. Less favorable on such other key objectives as free transit through straits and limiting coastal state controls over offshore resources.

COMMENT: We are, of course, still at an early and fluid state in these negotiations.

Attachment - Tab A.

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PA/HO Department of State
E.O. 12958, as amended
July 12, 2005

TAB A

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THE SECRETARY OF STATE
WASHINGTON

September 15, 1971

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MEMORANDUM FOR THE PRESIDENT

Subject: 1973 Law of the Sea Conference

On May 23, 1970, you announced new proposals aimed at ensuring that the oceans are used for the benefit of mankind and not become an arena for unrestrained exploitation and conflicting claims. These were designed to accommodate specific U.S. security and resource interests, particularly U.S. mobility at sea.

The UN subsequently decided to convene a 1973 Law of the Sea Conference with preparations in an 86 member Committee. However, unilateral claims over ocean space continue. The Organization of African Unity recently called on Africans to extend their jurisdiction over fisheries.

Your 1970 proposals call for 12-mile territorial seas, free transit through international straits, mixed coastal State and international authority over fisheries and seabed resources in a fairly broad coastal area ("trusteeship zone" in our seabeds proposal), and international regulation of seabed resource development seaward of that zone. The coastal State would retain exclusive sovereign rights over seabed resources to a depth of 200 meters.

At the just completed Geneva session of the UN Preparatory Committee, State Department Legal Adviser, John R. Stevenson, introduced draft Articles on territorial seas, straits, and fisheries. He stressed the connection between solutions on territorial seas and straits and U.S. accommodation of coastal State interests in fisheries. He indicated flexibility on the outer boundary of the seabed trusteeship zone.

A 12-mile territorial sea is widely supported, but frequently linked to satisfying coastal State interests beyond 12-miles in fisheries, seabed resources and pollution. We link a 12-mile territorial sea with free transit through straits. Spain is engaged in a diplomatic offensive against our straits proposal, and other States bordering straits have difficulties with it. There may be room for compromise,

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and we plan to continue private talks with important straits States in an attempt to solve their particular problems.

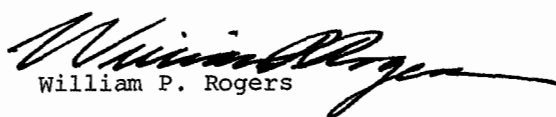
Some Latin American countries, such as Brazil and Peru, are seeking to stimulate other countries to make extensive unilateral claims and to delay the 1973 Conference since they fear rejection there of their unilateral approach.

The Geneva talks made clear that if we are to lead countries away from a unilateral approach it will be necessary to find some way within a multilateral context to give adequate satisfaction to coastal States with respect to adjacent resources in the water (fish) and under the sea (oil, gas, and hard minerals). Although Brazil, Peru and Ecuador appear to be the only States actively supporting a 200-mile territorial sea, many coastal States express support for a 200-mile zone in which they would have exclusive control over all resources. We must find a way to balance coastal, international and maritime (military and shipping) interests in coastal areas. Our proposals seek to accomplish this through the international community delegating specific authority over resources to coastal States, subject to international standards and review.

The Soviet delegation, with which we have good working relations, strongly supported us on territorial seas and straits, but felt our fisheries proposal too coastal State oriented at this time. We will continue private conversations with them, at which they may stress the Arab problems with free transit in the Strait of Tiran. The Soviets presented a skeletal seabeds treaty, but remain interested in our trusteeship proposal.

Many developing countries favor making the Conference and treaty universal, to include the PRC among others. Hard-line Latins could use this issue to delay the Conference.

We have a good chance of achieving a 12-mile territorial sea, but will have a more difficult time achieving our other security-related objectives: free transit through straits and mixed coastal/international controls over offshore resources. Between now and the Spring Committee meeting, we will review our approach while pursuing the high-level diplomatic campaign you authorized in support of our policy.


 William P. Rogers
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